

RECEIVED  
CENTRAL FAX CENTER

NO. 801 0010

SEP 05 2006

REMARKS

Claims 1-4, 7-10, 12 and 14-24 are pending in the application. Claims 1-4, 7-10, 12 and 14-23 are rejected. Claim 11, which was listed as withdrawn in Applicant's prior Amendment is now listed as canceled. Claims 5, 6, and 13 have been canceled. Claims 1, 10 and 18 have been amended to incorporate the elements of now-canceled dependent claims. Claim 7 has been amended to change its dependency from Claim 6 (now canceled) to Claim 1. Claim 12 has been amended to change its dependency from Claim 11 (now canceled) to Claim 10. Claim 14 has been amended to change its dependency from Claim 13 (now canceled) to Claim 10. New independent Claim 24 has been added to the application. The amendments and new Claim 24 are fully supported by the specification and no new matter has been added thereby.

Claim Rejections - 35 U.S.C. §102

The Examiner rejected claims 1, 5-7, 10, 12-13, 15-18, and 21-22 under 35 U.S.C. § 102(b) as being anticipated by Japanese Patent No. 2002-048356 A to "HAIMN". Applicants respectfully traverse this rejection.

Claims 1, 10 and 18 are independent claims. The remaining claims depend from one of these independent claims.

Figure 6 of HAIMN shows a "tentorium" 32 (aka, a tent), in which goods can be cooled by a "condensator" 1 inside the tentorium 32 and a refrigerator case 12 outside the tentorium. The tent is shown to be attached to the ground with traditional tent posts near the corners of the tent. Nothing in Figure 6 shows the tent containing a seal material at its lower perimeter, nor does it show a seal being created between the tent and any surface on which goods may be placed to cool.

Claim 1, as currently amended, recites a method comprising the step of "lowering the apparatus adapted to form a chamber over said goods and over the first portion of the cooling apparatus causing a seal material located on a lower perimeter of said chamber apparatus to deform against the surface to substantially seal the chamber." Such a step is not shown in HAIMN. As discussed above, HAIMN does not disclose a seal material on its lower perimeter. As such, HAIMN further does not disclose, teach or suggest a seal material that "deform[s] against the surface to substantially seal the chamber."

This element is essentially the same as that which was the subject of now cancelled Claim 6. In rejecting that claim, the Examiner states that, in HAIMN, "both the tent

perimeter and the connection pipes 10/11 touching the ground surface and thus sealing the spot through the pipes entered the tent 32.” This is not disclosed in the HAIMN reference. The connection pipes in Figure 6 are not located on a lower perimeter of the tent, and are not used for sealing the enclosure. As stated in paragraph 25 of HAIMN, the flexibility pipes “are inserted into the field tentorium from the skirt of the field tentorium.”

Even if the connection between the pipes can be said to contain a “seal material” of claim 1 (which it cannot), such seal material, whatever it may be, HAIMN could not be read to disclose a seal along the lower perimeter of the chamber apparatus to substantially seal the chamber, and certainly could not be read to disclose a seal that deforms against the surface on which the goods are placed, all of which are required by now amended Claim 1. While the connection between the pipes and the tent, themselves, may be sealed via the couplers on those connections, the reference does not disclose those couplers or pipes affecting a seal of the chamber over the goods. The tent in HAIMN is merely fastened to the ground via corner posts as shown in Figure 6. Furthermore, nothing in HAIMN discloses lowering a chamber apparatus over goods to be cooled, wherein such lowering of the chamber apparatus causes a seal material to deform against the surface on which the goods are placed, also required by now amended Claim 1. Because Claim 1 contains elements not disclosed in HAIMN, HAIMN cannot anticipate Claim 1.

Claim 10 recites a cooling apparatus comprising “a frame intermediate portion . . . adapted to receive a seal that is located substantially along a lower perimeter of an enclosure that forms a chamber over said frame first portion.” As discussed above, HAIMN does not disclose a seal located substantially along a lower perimeter of an enclosure. Additionally, Claim 10 recites a “cooling apparatus frame comprising a frame first portion . . . a frame second portion . . . [and] a frame intermediate portion . . . adapted to receive a seal . . . .” The Examiner does not point to any disclosure in HAIMN of an intermediate portion of a cooling apparatus frame that is adapted to receive a seal. “Where a claim is refused for any reason relating to the merits thereof it should be ‘rejected’ and the ground of rejection fully and clearly stated.” MPEP § 707(d). Additionally, as amended, Claim 10 includes “at least one carrier, wherein said frame rests on said at least one carrier to facilitate movement of the frame,” which is not disclosed in HAIMN. Because Claim 10 contains elements not disclosed in HAIMN, and no basis for such rejection has been supplied, HAIMN cannot anticipate Claim 10.

Claim 18, as currently amended, recites a cooling system comprising “a substantially sealed enclosure formed by lowering an enclosure over the evaporation coil and

over goods on a surface to be cooled causing a seal material located on a lower perimeter of said enclosure to deform against said surface, and such that the compressor is positioned without the enclosure." HAIMN does not disclose this element. As discussed above, HAIMN does not disclose a substantially sealed enclosure. The tent of figure 6 is not substantially sealed and even if it was (which it is not) it is certainly not sealed in the manner claimed. It is affixed to the ground using traditional tent posts as depicted in Figure 6. Because Claim 18 contains elements not disclosed in HAIMN, HAIMN cannot anticipate Claim 18.

Additionally, Figure 6 of HAIMN shows a "tentorium" 32 containing a "condensator" 1. Figure 6 also shows a compressor 14 inside a refrigerator 12. "The refrigerator case 12 is installed out of tentorium 25." See HAIMN translation, paragraph 25. The Examiner points to the "condensator 1" of HAIMN as an "evaporator/condensator." However, the reference does not disclose an evaporation coil. A person having ordinary skill in the art would be aware that a condenser and an evaporation coil are not required to be together in a refrigeration system, and are often separated. Even if HAIMN disclosed an evaporation coil (which it does not), such coil could be with or within the refrigerator case 12, which is outside the tent. Nothing in the HAIMN reference shows positioning an evaporation coil within a chamber.

The rejection of Claims 1, 10, and 18 in view of HAIMN should also be obviated since HAIMN does not disclose a carrier on which at least a part of the cooling apparatus rests to facilitate movement of the apparatus. More specifically Claim 1, as amended, recites a method of cooling comprising the step of "positioning at least one cooling apparatus having a first portion and a second portion proximate the goods, providing at least one carrier on which the cooling apparatus rests to facilitate movement of the apparatus." Claim 10, as amended, recites a cooling system comprising "at least one carrier, wherein said frame rests on said at least one carrier to facilitate movement of the frame." Claim 18, as amended, recites a cooling system comprising "at least one carrier, wherein at least one of said first support and said second support rests upon said carrier to facilitate movement of at least one of said first support and said second support." HAIMN does not disclose the use of a carrier, upon which the cooling apparatus of claim 1, the frame of claim 10, or the first support or second support of claim 18 rests. Additionally, HAIMN does not disclose the use of a carrier "to facilitate movement of the frame," as recited in such claims.

\*

\*

\*

\*

In view of the reasons set forth above in reference to the independent claims 1, 10 and 18, it is unnecessary for Applicants to comment on the Examiner's contentions as to what HAIMN discloses in reference to the elements of the rejected dependent claims.

However, the Examiner does reject many of the dependent claims without citation to any material in HAIMN purporting to disclose the additional elements contained in such dependent claims. By way of example, the Examiner rejects claim 12, which recites a cooling apparatus "wherein the frame intermediate portion comprises a surface having a plurality of sloped portions and a substantially level portion adjacent to one of the plurality of sloped portions." HAIMN does not disclose such a surface, and the Examiner does not refer to any particular portion of HAIMN as purporting to disclose that element of Claim 12.

Claim 15 recites a cooling apparatus comprising "at least one projection adjacent to the evaporation coils to facilitate movement of a flowable material through the evaporation coils by inhibiting contact between the substantially sealed enclosure and the evaporation coil," and Claim 22 recites a cooling system comprising "a projection associated with the evaporation coil to inhibit contact between the substantially sealed enclosure and the evaporation coil." HAIMN does not disclose a projection for inhibiting contact between the enclosure and the evaporation coil, and the Examiner does not refer to any particular portion of HAIMN purporting to disclose that element of Claims 15 or 22.

Claim 17 recites a cooling apparatus comprising "a deflector mounted to the frame first portion to direct the flowable material in a desired direction." HAIMN does not disclose a deflector mounted to the frame first portion to direct the flowable material in a desired direction, and the Examiner does not refer to any particular portion of HAIMN purporting to disclose that element as recited in Claim 17.

For a reference to anticipate under § 102 it has to meet every element of the claimed invention. For the above-mentioned reasons, HAIMN does not anticipate claims 1, 10, and 18. Furthermore, as the remaining claims 5-7, 12-13, 15-17, and 21-22 rejected as anticipated by HAIMN depend from either claim 1, 10 or 18, they too are not anticipated by HAIMN. Therefore, Applicants respectfully request withdrawal of the §102 rejection.

#### Claim Rejections - 35 U.S.C. §103

Claims 2-4, 14, 19, 20 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over HAIMN in view of King et al. (U.S. Patent No. 4,485,633). Claims 8 and 9

have been rejected under 35 U.S.C. § 103(a) as being unpatentable over HAIMN in view of Hiroshi (JP 5-252855 J). Applicant respectfully traverses these rejections.

As noted above, HAIMN does not disclose certain elements of independent claims 1, 10, and 18. Similarly, such elements, other than an evaporator coil, are not found in the King reference or the Hiroshi reference. While the King reference discloses an evaporator coil, the combination of HAIMN and King does not teach or suggest "a seal that is located substantially along a lower perimeter of an enclosure that forms a chamber over said frame first portion" for mounting an evaporation coil as recited in claim 10. The combination of HAIMN and King does not teach or suggest "a substantially sealed enclosure formed by lowering an enclosure over the evaporation coil and over goods on a surface to be cooled causing a seal material located on a lower perimeter of said enclosure to deform against said surface, and such that the compressor is positioned without the enclosure" as recited in claim 18. Therefore, one could not combine HAIMN with King or Hiroshi to derive Applicants' claimed invention.

In view of the reasons set forth above in reference to the independent claims 1, 10 and 18, it is unnecessary for Applicants to comment on the Examiner's contentions as to what King or Hiroshi disclose in reference to the elements of the rejected claims under 35 U.S.C. §103. Accordingly, Applicants respectfully decline to comment on such contentions and expressly reserve their right to do so during further prosecution of this application, related applications, or in litigation.

For these reasons, Applicants respectfully request withdrawal of the §103 rejections.

Regarding the rejection of claims 8 and 9, the Examiner combined HAIMN with Hiroshi stating that HAIMN does not disclose fumigation but Hiroshi does. However, there is no teaching cited by the Examiner that would suggest or create a motivation to combine HAIMN with Hiroshi. In fact, it is in part due to the long felt need and benefits to combining cooling with fumigation in the manner claimed and as set forth in the application that renders such claims patentable. Accordingly, for these additional reasons, the rejection of claims 8 and 9 should be withdrawn.

Regarding the rejection of claims 19 and 20, the Examiner's statement that "there is no problem for sealing substantially by laying the tent bottom over the conduits 10/11 on the surface and there is no problem for quick connection as there are quick connectors as described

in the translation" of HAIMN is misplaced.<sup>1</sup> The Examiner's apparent attempt to downplay the importance of an element of claims 19 and 20 does not remedy the fact that the element is not disclosed in the references cited by the Examiner or known in the art for the intermediate support of a cooling system to have a beveled surface or for such beveled surface to form a conduit to facilitate the coupling of the evaporation coil and the compressor. An embodiment of such beveled surface is shown in Figure 3A and described in paragraph 23 of the application in reference to channel 26. Accordingly, for this additional reason, the rejection of claims 19 and 20 should be withdrawn.

#### Conclusion

Based on the Amendments and Remarks above, Applicants respectfully request allowance of all pending claims.

Respectfully submitted,  
SCHNADER HARRISON SEGAL & LEWIS LLP

Date: September 5, 2005

By

  
\_\_\_\_\_  
Robert A. McKinley (Reg. No. 43,793)  
1600 Market Street, Suite 3600  
Philadelphia, PA 19103  
Tel: (215) 751-2181  
Fax: (215) 751-2205  
Internet E-mail: rmckinley@schnader.com  
Attorneys for Applicant

<sup>1</sup> Applicants assume that the Examiner's reference to "claims 19 and 29" on page 3 of the office action is a typographical error, and that the reference was meant to be a reference to claims 19 and 20.